

REMARKS

**Election of Species Requirement**

In the present Office Action, the Examiner indicated that the Applicant's September 21, 2006 election of species has been treated as an election without traverse. In addition, the Examiner indicated that claim 12 should not be drawn to the elected species. In the initial election of species requirement, dated September 13, 2006, the Examiner, in addition to stating that there existed five patentably distinct species as shown respectively in FIGS. 1 through 5, FIG. 6, FIG. 7, FIG. 8 and FIG. 9, indicated that no claims were deemed generic.

The Applicant respectfully submits that claim 1 is generic, as all of the species include a first ply with a printable region, a second ply with a printable region and adhesive and release layers disposed between facing surfaces of the first and second plies in the manner recited in claim 1. Moreover, the recitation of these features in claim 1 does not distinguish between label orientation, co-planar alignment or overlapping positioning, all as identified by the Examiner on page 2 of the election requirement mailed on September 13, 2006 as features peculiar to the various species identified therein.

While the Applicant maintains his previous election, it is now being made with traverse because the Applicant believes that the claims are directed to a single, patentable invention. As pointed out in the preceding paragraph, claim 1 is generic to all of the species. Upon allowance of claim 1, the Examiner will be required to withdraw the election requirement and examine claims to all of the species. Not to examine the species at this juncture, when (1) only a reasonable number of species are presented and (2) a generic claim is presented, will unduly extend prosecution. The reasonable number of claims and the limited number of species disclosed in this application suggest that there would not be a serious burden on the Examiner if all of the species were examined together at the outset. Proceeding as the Examiner proposes will unduly burden the

Applicant with extended prosecution, and may delay the issuance of the instant application. In view of the submission of what the Applicant believes to be a patentable generic claim, the Examiner should at least treat all of the claims and require election among species only in the event that the generic claim is determined to be unpatentable.

**Rejection of Claims under 35 USC 102 and 35 USC 103**

The Examiner relied upon Published US Application 2004/0195824 to Blank (hereinafter Blank) as either the sole reference (claims 1 through 3, 6, 8 through 22, 29 through 33 and 35 through 41) or as the primary reference (claims 4 and 5) to reject the present claims as either anticipated or obvious.

The Applicant, in the attached declaration, swears behind the April 4, 2003 filing date of Blank. As such, the Applicant respectfully submits that Blank is not prior art, and that all of the present claims are in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

DINSMORE & SHOHL L.L.P.

By

  
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